

NORTH CAROLINA DEPARTMENT OF CORRECTION
Equal Employment Opportunity Office

2011 Equal Employment Opportunity Plan

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THE NORTH CAROLINA DEPARTMENT OF CORRECTION DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, SEX, RELIGION, CREED, NATIONAL ORIGIN, AGE, GENETIC INFORMATION, OR DISABLING CONDITION.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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**State of North Carolina
POLICY STATEMENT**

State of North Carolina Policy Statement

It is the policy of the State of North Carolina to provide equal employment opportunity for all qualified persons and to prohibit discrimination in employment because of race, color, religion, creed, sex, national origin, age, disabling condition, genetic information, or political affiliation. In furtherance of this policy, the State of North Carolina in its various sub-divisions shall:

1. Recruit, select, hire, place, train and promote persons in all job classifications without regard to race, color, religion, creed, sex, national origin, age, disabling condition, political affiliation, genetic information or sexual orientation;
2. Base selection, hiring, and promotion decisions on valid requirements and criteria, which are job related and necessary upon entry at that level to perform the essential functions of the job;
3. Administer all employment practices objectively, including compensation, benefits, promotion, training, tuition assistance, termination, transfer, demotion, and reduction-in-force, without regard to race, color, national origin, religion, creed, sex, age, disabling condition, political affiliation or sexual orientation;
4. Provide reasonable accommodation for applicants and/or employees with disabilities when doing so will enable them to successfully perform the essential functions of the job or benefit from training;
5. Prohibit retaliatory actions against employees or applicants for employment who make a charge of employment discrimination or testify, assist, or participate in any manner in a hearing, proceeding, or investigation of employment discrimination; and
6. Assure a work environment that is free from discrimination.

North Carolina Department of Correction
POLICY STATEMENT

North Carolina Department of Correction Policy Statement

The Department of Correction is an Equal Employment Opportunity Employer; therefore, we are committed to provide all current employees and applicants with equal employment opportunities without discrimination on the basis of race, color, sex, religion, creed, national origin, age, genetic information, or disability status, except where age, sex or physical requirements constitute bona fide occupational qualifications.

In doing so, the Department of Correction is in compliance with the following, as amended:

- Title VII of Civil Rights Act of 1964;
- Federal Executive Order 11246;
- The Equal Pay Act of 1963;
- The Age Discrimination in Employment Act of 1967 (ADEA);
- Title V of the Rehabilitation Act of 1973;
- The Veterans Preference Act;
- Governor's Executive Order #76, Amendment to Executive Order #18 and Executive Order #22;
- The Family and Medical Leave Act of 1993 (FMLA);
- The Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008 (ADAA);
- Senate Bill 886: Merit Based Hiring;
- Senate Bill 78: Unlawful Workplace Harassment;
- The Lilly Ledbetter Fair Pay Act of 2009; and
- Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA).

The Department of Correction's Equal Employment Opportunity program is intended to create a diverse workforce climate that is responsive and respectful of fairness and equity for applicants and employees which ensures compliance with State and Federal guidelines. Equal Employment Opportunity guidelines also prohibit retaliatory actions against employees or applicants because they filed a charge, testified, assisted or participated, in any manner, in a hearing, proceeding, investigation, or employment discrimination complaint.

In the furtherance of this policy, the Department of Correction will:

- Prohibit retaliatory action of any kind taken by any employee of the Department of Correction against any other employee or applicant for employment because that person made a charge, testified, assisted or participated in any manner in a hearing, proceeding or investigation of employment discrimination.
- Assure that all the employment practices of the agency will be administered without regard to race, color, national origin, religion, creed, age, sex, genetic information, political affiliation¹, sexual orientation², disability, or equal compensation that these practices shall include, but are not limited to:
 - recruitment, including advertising, or soliciting for employment;
 - selection, hiring and placement;
 - treatment during employment including compensation, promotion and reallocation;
 - evaluation of work performance;
 - administration of all forms of pay and other compensation;
 - selection for training, including trainee, interim and apprenticeship opportunities;
 - other career development opportunities, and

- transfer, separation, demotion, termination and/or reduction-in-force


1 Direct appeal to the State Personnel Commission on the basis of political affiliation is provided only to employees who have achieved career status pursuant to G.S. 126-1A.

2 Complaints relating to Sexual Orientation are limited to the agency's internal grievance process.

- Assure the Department of Correction provides reasonable accommodations for applicants and/or employees with disabilities when doing so will enable them to successfully perform the essential job functions or benefit from training
- Discourage and prevent harassment (based on race, color, national origin, religion, creed, sex, age, genetic information or disability) and prohibit through well-defined policy and laws.
- Ensure greater utilization of all persons by identifying the underutilized groups in the workforce and making special efforts to increase their participation in recruitment, selection, training and development, upward mobility programs and any other term, condition, or privilege of employment.
- Delegate the responsibility of the actual development of the Equal Employment Opportunity plan and program to the EEO Manager. However, responsibility for the implementation of and compliance with this plan and program shall be shared by the Secretary, Deputy Secretaries, Senior Staff, Division Directors and all managers and supervisors.
- Assure that the EEO plan and program effectiveness will be monitored and evaluated continuously for program effectiveness.
- Understand and value diversity within the Department of Correction.

The Secretary, Deputy Secretaries, Division Directors, managers and supervisors and all employees of the Department of Correction concur on the need for this policy and are committed to a diverse workforce.

Adopted March 1, 2011.



Alvin W. Keller, Jr., Secretary
Department of Correction

Assignment of Responsibility and Accountability

Assignment of Responsibility and Accountability

It is the responsibility of the North Carolina Department of Correction, as defined by Statute, to “provide the necessary custody, supervision, and treatment to control and rehabilitate criminal offenders and juvenile delinquents (143 B-261).” In order to successfully fulfill this responsibility, the Department has been organized into major divisions.

The Department of Correction has been actively working to meet the mandates of the Governor’s program goals. Whenever appropriate the Department has formulated goals to correspond with the Administration’s goals of an efficient and effective government, and fair equitable representation of all citizens.

Governor of North Carolina

On May 6, 2009, the Governor issued Executive Order No. 14, Equal Employment Opportunity, committing the State of North Carolina to providing equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, creed, national origin, sex, age, genetic information, or disabling condition; endorsing positive approaches to ensure equal employment opportunity; and affirming that the personnel practices of state government should be nondiscriminatory and promote public confidence in the fairness and integrity of government.

The Governor of the State of North Carolina has overriding responsibility for the State’s equal employment opportunity policies and programs. The responsibility for the actual development and implementation of the Department of Correction Equal Employment Opportunity (EEO) Plan and program is delegated to the Secretary.

Office of State Personnel EEO, Diversity & Compliance Division

Responsibility for the provision of technical assistance in EEO and program review, monitoring and evaluation according to State Personnel Commission policy and guidelines is delegated to the Office of State Personnel. This responsibility is assigned to the EEO, Diversity & Compliance Division of the Office of State Personnel. The responsibilities of the EEO Diversity & Compliance Division include:

- technical assistance - to include one on one or group consultation and an EEO Planning and Resources Guide to aid in the development and implementation of an effective plan and program;
- training for: (a) EEO Officers, EEO committee members and others responsible for the development and/or implementation of the EEO plan and program, (b) agency heads, chancellors, managers and supervisors on diversity and EEO issues through the EEO Institute, (c) all employees on unlawful workplace harassment prevention, reasonable accommodations for the disabled, diversity issues, and other EEO issues as appropriate;
- monitoring to assess each agency’s and university’s progress;
- oversight to ensure that the EEO plan and program in each agency and university complies with the minimum established measures in content and elements for an effective plan and program;

- evaluation criteria to review, assess and report the status of each agency's and university's EEO plan, policies, procedures, practices and programs, in order to determine if they are administered in a consistent and fair manner. Evaluation will include an on-site component; and
- support programs to enhance each agency's and university's efforts to attract, develop, promote and retain a diverse workforce and to meet program objectives.
- The Office of State Personnel shall develop data systems and design tools to review data and analyze the degree of diversity within each occupational category. The information collected from the data systems, tools and analysis will be used to evaluate trends related to all aspects of employment in order to determine the impact of all personnel policies and practices on EEO throughout State government and within each agency and university.

Secretary, Department of Correction

The Secretary of the Department is ultimately responsible for all activity including personnel within the agency. Responsibility for personnel policies and procedures and daily activity is delegated to the Human Resource Management Division, Personnel Office. The EEO Manager who reports directly to the Human Resources Director *and* the Secretary of the Department are responsible for assuring that the EEO program implementation and administration is carried out in an efficient and effective manner. All matters related to Equal Employment are directed to the EEO Office for review, (i.e. specialized recruitment functions, discrimination complaints, unlawful workplace harassment, and other Title VII issues which represent but are not limited to equal opportunity).

Directors, Managers and Supervisors

Directors, Managers and Supervisors shall be responsible for carrying out equal employment as a basic part of their jobs. Each one is responsible for implementing the specific elements of the EEO Plan. These elements are designed to eliminate the underutilization of minorities, females, and workers with disabilities and remove the barriers to equal employment opportunity that created this underutilization. Directors, Managers and Supervisors are accountable for progress toward goals set by their respective division as outlined in the Department's EEO plan. The specific responsibilities of managers and supervisors include, but are not limited to:

1. Assisting in the identification of problem areas and establishing program objectives;
2. Making every effort to achieve program objectives and maintaining a diverse workforce for the department, division, work unit, or section;
3. Providing career counseling for employees and ensuring that all employees are given the full opportunity to attend workshops and seminars and/or to take credit courses under the provisions of the agency's educational assistance program;
4. Assisting the EEO Office in periodic evaluations to determine the effectiveness of the EEO program;
5. Sensitizing employees to all EEO policies;
6. Preventing and correcting unlawful workplace harassment of employees; and
7. Providing a work environment and management practices that support equal opportunity in all terms and conditions of employment.

Equal Employment Office (EEO) Office

The EEO Office of the Department of Correction has primary responsibility for implementation and administration of the EEO program to include update and revision of the EEO Plan on an annual basis.

The EEO Manager has the following primary responsibilities:

- Chief individual responsible for the structure and composition of the departmental EEO plan submitted to the Office of State Personnel (OSP) in March of each year in accordance with state law
- Inform the Human Resources Director and Secretary of progress in a timely manner of the “approved” plan by OSP
- Develop duties and responsibilities of the EEO Officers
- Chief contact individual with OSP on all EEO matters and issues as it applies to DOC
- Respond to external questions and inquiries at the departmental level in regard to structure and composition of the EEO program
- Interacting with the EEO Officers in applying all Federal, State laws, regulations, policies and guidelines that involve discrimination in employment and workplace harassment in their respective regions
- Provide training to EEO Officers and Committee
- Providing confidential counseling for management in regard to trends of discrimination in the workplace as well as working with Human Resources Employee Relations on identified trends and not individual cases
- Develop a system in conjunction with HR Director to track new hires, dismissals, in-range adjustments, promotions, complaints, etc. which may show progress or discriminatory actions and trends which will be reported to their respective regions and to the Secretary
- Review all EEOC complaints and facilitate the timely submittal of information and documentation to federal and state agencies.
- Monitor BEACON and other data collection systems that provide the Equal Employment Opportunity information necessary to compile statistical reports which can be utilized for tracking, measuring program effectiveness and to determine where progress has been made and further action is needed.

The EEO Officers will have the following primary responsibilities:

- Provide with assistance from the Office of State Personnel and Office of Staff Development and Training (OSDT), and the EEO (Equal Employment Opportunity) Institute a training program pertaining to equal employment opportunity issues for supervisors and managers.
- Develop, conduct and monitor training programs relative to specific EEOC topics, (i.e., EEO/unlawful workplace harassment and diversity/race relations training).
- Provide consultation with management on development of policies and procedures regarding EEO issues.
- Receive and investigate complaints alleging unlawful workplace harassment and discrimination, to include review and monitor discrimination complaints filed against the Department through the EEOC, North Carolina Office of Administrative Hearings, and North Carolina Office of State Personnel;
- Distribute current EEO information throughout the Department.
- Establish with the managers reasonable projected time frames to correct identified problems consistent with the goals of the agency.

- Communicate with all management and supervisory personnel regarding the purpose of the EEO Program.
- Assure that management, supervisory personnel, and employees fully understand the Secretary's policy regarding equal employment opportunity.
- Provide technical assistance to employees on EEO policies. Provide guidance and training in the prevention and correction of incidents concerning unlawful workplace harassment of employees.
- Monitor progress of the Department's EEO Program by the preparation of statistical reports for each Division reviewing equity within classification, turnover rates, etc., in order to assist Divisions in the development of goals and timetables.
- Prepare statistical reports as requested.
- Attend EEO training and meetings as deemed appropriate by the EEO Manager, Human Resource Director or Secretary of the Department of Correction.
- Present work-force analysis of correctional unit or branch and identification of classification where under-utilization exists.

EEO Committee

EEO Committee responsibilities shall include, but are not limited to:

- serving as a communication link between managers and employees and the EEO staff on aspects of the EEO plan and program;
- reviewing and evaluating the equal employment opportunity plan and program;
- reviewing workforce representation data in each occupational category;
- surveying the organizational climate, employee attitudes and evaluating the resultant data;
- meeting with the agency head or university chancellor in conjunction with the EEO Officer to discuss EEO programs, report on the employees' concerns, and recommend changes or additions to the EEO policy, plan, or program;
- identifying recruitment resource and other activities designed to strengthen the EEO program;
- meet as a committee at least quarterly.

**Communication and Dissemination
of the EEO Policy and Plan**
Internal and External Dissemination

COMMUNICATION AND DISSEMINATION OF THE EEO POLICY AND PLAN

To create and maintain a work environment in the Department that is free of any conduct which falls under the definition of unlawful workplace harassment the following steps shall be accomplished:

1. Develop and disseminate to management and all employees the Unlawful Workplace Harassment Policy statement for the agency.
2. Post the Unlawful Workplace Harassment Prevention Plan on the DOC website and in a conspicuous location in every work unit throughout the Department.
3. Post the DOC - Unlawful Workplace Harassment Poster on the DOC website in a conspicuous location in every work unit throughout the Department.
4. Post the Unlawful Workplace Harassment Policy on the DOC - EEO web site.
5. Provide training as needed for units/facilities on the Unlawful Workplace Harassment Policy.
6. Issue disciplinary action against violators of the Unlawful Workplace Harassment Policy under the Department's Personal Conduct Disciplinary Policy.

INTERNAL DISSEMINATION

A copy of the Department's EEO Plan is posted on the DOC Intranet, EEO Office website for printing by all Division Directors, Section Chiefs, Correctional Administrators, Superintendents and all other managers not listed. A copy of the plan is placed in the employee orientation handbook and on all employees' bulletin boards in a conspicuous place for access by employees and applicants for review.

EXTERNAL DISSEMINATION

The Department will actively recruit from a variety of sources to achieve a diverse workforce that also meets the needs and demands of the agency. The Department will conduct targeted recruitment where under-represented groups are identified and disseminate information regarding the Department's EEO Program. In addition, the Department of Correction stationary and all job advertisements include the statement "An Equal Opportunity Employer".

Workforce Analysis

WORKFORCE ANALYSIS

The EEO Office is responsible for annually developing the EEO Plan pursuant to requirements of state law. The plan consists of establishing specific goals and timetables for the reduction and eventual elimination of under-utilized groups in all standard occupational classifications.

Implementation of and compliance with this plan is the responsibility of supervisors, managers, and directors. The organization of the plan is composed of the following steps:

- workforce/demographic analysis, which profiles the distribution of workers in each department by race, gender, and persons reporting disabilities, compared with percentage of North Carolina State demographics in each ethnic category. The under-utilization is calculated based on that comparison;
- estimate or project future job vacancies in each occupational classification where under-utilization has occurred and project the Department's capacity to eliminate or reduce the under-utilization;
- establish placement goals for reduction of under-utilization in each category to include timetables that identify specific dates for achievement; and develop an action plan to facilitate the likelihood of goal achievement within the established time frames.

In reviewing the report, it is important to understand the meaning of and limitations on the data presented. The report compares the percentage of persons working in various job categories in the Department of Correction at a particular point in time with percentages of persons reported in various census statistics that reflects the population statewide from ages 18 to 64. Thus, the report's comparisons are only hypothetical comparisons. They do not include comparisons to percentages of persons for whom applications have been actually received by the Department nor to the subset of these applications that actually qualify for hire by the Department. Further, limitations in the specificity of the census data available for use means that such statistics very likely include many individuals not actually qualified to be hired by the Department. Therefore, this report and any findings of "under-utilization" as to particular job categories set further therein; are simply rough, hypothetical indicators intended only to be utilized as a tool in the Department's recruitment efforts. A finding of "under-utilization" as to job category does not mean, and is not intended to mean, that there are any problems with the Department's hiring practices or that recruitment or hiring into that job category is in any legal or other sense "discriminatory." Rather, the identification of hypothetical "under-utilization" as to a particular job category merely serves to identify that category as one where the Department should seek to ensure that potential candidates are being recruited, encouraged to apply for employment, and considered for employment.

Any setting of hiring "objectives" required by the report is again intended only as a tool to facilitate and focus recruitment efforts and is not intended as a quota, or mandate for hiring particular individuals regardless of qualifications. Further, the setting of such objectives is also hypothetical in that it requires a projection of both the numbers of vacancies and qualified applicants, neither of which may actually occur. The failure to achieve any of these "objectives" does not mean that "discrimination" has occurred. In sum, the report is intended solely as an aid to facilitate the Department's ongoing efforts to recruit and hire a diversified workforce.

2011 WORK FORCE UTILIZATION ANALYSIS

The North Carolina Department of Correction's work force was analyzed according to statistics received from BEACON. This analysis was conducted to identify the areas in which underutilized groups, i.e., white males and females, black males and females, other minority males and females, (Hispanics, Asians, Native Americans, and disabled persons), may be under-represented in the Department of Correction. Knowledge of these problem areas was extremely helpful in the selection of areas to make job estimates as well as what realistic placement goals should and could be made by Department managers.

For the purpose of reviewing the work force data, each Division was given the responsibility of reviewing data for their respective areas. The EEO Office reviewed the data presented in the BEACON 170-F Report and compiled reports of the "Job Opening Estimates for Occupations in which Underutilization Occurs", which revealed the problem areas in Standard Occupational Classes containing five (5) or more employees. The reports were submitted to the Division Directors for their professional input regarding job estimates and placement goals. The Department of Correction and division structure, indicated that areas of concern varied by location in the various components.

The EEO Office conducted an analysis using the Population/Work Force Standard by SOC, B0173 Report for December 2010, from the BEACON system and comparing these numbers to the Projection of Openings estimated by the Division Directors for 2010. **The analysis found that the department did not meet the representation goals in the majority of the SOC categories; however, there were percentage increases in the underutilized areas despite severe reductions in the number of new positions anticipated and optimistic goals projected for 2010.**

Officials and Administrators: This Standard Occupation Category (SOC) reflects a decrease of 14 positions from 164 positions in 2009 to 150 positions in 2010. The 2010 data reflects the following:

1. White males a decrease from 42.7% to 35.3%
2. White females an increase from 23.8% to 27.3%
3. Black males an increase from 15.2% to 16.7%
4. Black females an increase from 14.6% to 17.3%
5. Other minority males, an increase from 2.4% to 2.7%
6. Other minority females, a decrease from 1.2% to .7%

The department did not meet its Officials and Administrators representation goals. However, the department made progress in the representation of White and Black females. Of the 150 total positions, 3 or 2% are listed as voluntary self-reports on the PD107 as a person with a disability.

Management Related: This SOC category reflects the following increase of 9 positions from 277 positions in 2009 to 286 positions in 2010. The 2010 data reflects the following:

1. White males an increase from 26.7% to 26.9%
2. White females a decrease from 48.4% to 48.3%
3. Black males a decrease from 6.5% to 5.9%
4. Black females a decrease from 14.8% to 14.7%
5. Other minority males, an increase from 1.8% to 2%
6. Other minority females, a decrease from 1.8% to 1.43%

The department did not meet its representation goals for females and minorities. Twenty positions were projected; however, only 9 positions were added. Of the 286 total positions, 1 or .03% are listed as voluntary self-reports on the PD107 as a person with a disability.

Professional: This SOC category reflects the following increase of **125** positions from 3696 positions in 2009 to 3821 positions in 2010. The 2010 data reflects the following:

1. White males a decrease from 33.1% to 32.7%
2. White females a decrease from 32.2% to 31.0%
3. Black males an increase from 12.9% to 13.1%
4. Black females an increase from 18.4% to 19.6%
5. Other minority males, a decrease from 1.8% to 1.5%
6. Other minority females, an increase from 1.0% to 1.9%

The department did not meet its Professional representation goals; however, progress was made in minority males and females representation. Of the 3821 total positions, 42 or 1.1% are listed as voluntary self-reports on the PD107 as a person with a disability.

Technicians: This SOC category reflects an increase of **17** positions from 320 positions in 2009 to 337 positions in 2010. The 2010 data reflects the following:

1. White males a decrease from 11.9% to 11.3%
2. White females an increase from 45.9% to 47.2%
3. Black males a decrease from 3.8% to 3.6%
4. Black females an increase from 32.5% to 32.9%
5. Other minority males, an increase from 1.3% to 1.5%
6. Other minority females, a decrease from 4.7% to 3.6%

The department did not meet its Technicians representation goals; however, progress was made in representation of Black and White females. Of the 337 total positions, 7 or 2.1% are listed as voluntary self-reports on the PD107 as a person with a disability.

Administrative Support: This SOC category reflects an increase of **30** positions from 1422 positions in 2009 to 1452 positions in 2010. The 2010 data reflects the following:

1. White males a decrease from 4.4% to 5.2%
2. White females a decrease from 62.4% to 62%
3. Black males an increase from 2.2% to 2.3%
4. Black females an increase from 28.0% to 27.6%
5. Other minority males, a decrease from .04% to .03%
6. Other minority females, an increase from 2.5% to 2.6%

The department did not meet its Administrative Support representation goals. There was progress in reducing underutilization for minority females and Black males. Of the 1452 total positions, 23 or 1.6% are listed as voluntary self reports on the PD107 as a person with a disability.

Protective Service: This SOC category reflects an increase of **411** positions from 11,822 positions in 2009 to 12,233 positions in 2010. The 2010 data reflects the following:

1. White males, no change, 43.7%
2. White females, a decrease from 10.7% to 10.4%
3. Black males an increase from 21.9% to 22.1%
4. Black females a decrease from 19.7% to 19.5%
5. Other minority males, an increase from 2.7% to 2.9%
6. Other minority females, an increase from 1.3% to 1.4%

The department did not meet its Protective Service representation goals for White and Black females; however, representation increased for Black males other minority males and females. Of the 12,233 total positions, 249 or 2.0% are listed as voluntary self reports on the PD107 as a person with a disability.

Service: This SOC category reflects an increase of **14** positions from 639 positions in 2009 to 653 positions in 2010. The 2010 data reflects the following:

1. White males, no change, 27.7%
2. White females a decrease from 21.1% to 20.5%
3. Black males a decrease from 18.3% to 18.8%
4. Black females an increase from 30.4% to 30.9%
5. Other minority males a decrease from 1.1% to .8%
6. Other minority females, a decrease 1.4% to 1.3%

The department met its Service representation goals for White males. The department did not meet its goals for White females, and other minority males and females. Of the 653 total positions, 13 or 2% are listed as voluntary self-reports on the PD107 as a person with a disability.

Skilled Craft: This SOC category reflects an increase of **35** positions from 737 positions in 2009 to 772 positions in 2010. The 2010 data reflects the following:

1. White males a decrease from 81.1% to 79.5%
2. White females, no change, 3.1%
3. Black males an increase from 10.9% to 11.7%
4. Black females, an increase from 1.8% to 2.2%
5. Other minority males an increase from 2.8% to 3.2%
6. Other minority females a decrease from .03% to .02%

The department met its Skilled Craft representation goals for other minority males. The department did not meet its goals for Black males and females, however, the percentages reflect increases in representation. Of the 772 total positions, 13 or 1.7% are listed as voluntary self-reports on the PD107 as a person with a disability.

All Occupation Classes:

Of the 19,704 total positions, this reflects an increase of 627 positions within the Department of Correction from last year.

Of the 19,704 total positions, Females represent 8,099, an increase of 684 positions from last year; Minorities represent 8271, an increase of 424 positions from last year.

Of the total 19,704 positions, 3504 or 17.8% are Black Males; 3537 or 18.6% are Black Females; 465 or 2.4% are other minority Males; 311 or 1.6% are other minority Females.

Of the total 19,704 positions, 351 or 1.8% are listed as voluntary self reports on the PD 107 as a person with a disability.

Program Objectives

Program Objectives

Program Objectives shall establish specific strategies targeted at eliminating or reducing any underutilization identified in each occupational category

The following is a definition of each STANDARD OCCUPATIONAL CLASSIFICATION (SOC)

1) Officials & Administrators:

This category includes top and middle management occupations, which are concerned with achieving the overall objectives of an industrial, commercial, government, or other establishments. Workers in this category are not directly concerned with the fabrication of products or with the provision of services. They require knowledge of and the capability to put into effect management principles, practices, and techniques rather than those of a scientific or other specialty.

2) Management Related:

Business Specialist

Includes occupations concerned primarily with supporting business operations related to buying goods, materials, or business services for internal use or for further processing in industrial, governmental, business, and other establishments and occupations concerned with representing clients in business operations; concerned with enforcing adherence to policies, procedures, or regulations; and advising on standards. Inspectors, testers, graders, and samplers in the areas of processing materials, machining, fabricating, and assembling goods and products are classified in the Production Inspectors and Graders Division adjusting; appraising claims; emergency management; and management analysts.

Human Resources, Training, and Labor Relations Specialist

Includes occupations primarily concerned with implementing management policies related to personnel administration and labor relations by performing activities such as representing management or labor in collective bargaining procedures; participating in programs of recruitment, selection, placement, training, welfare, safety, compensation, and promotion; conducting job analyses to provide occupational information; and interviewing and counseling job applicants and employees to determine suitability for employment, vocational training, and other employment development programs.

Finance Specialists

Includes occupations primarily concerned with planning and administering accounting services, advising on accountancy problems, planning and conducting audits of accounts of industrial, governmental, and other organizations; planning and administering operational budgets for governmental and industrial organizations; and administering financial programs such as mortgage approval, credit analysis, and foreign exchange trading.

Marketing Occupations

Includes occupations concerned with selling goods and services, purchasing commodities and property for resale and with conducting partnership.

3) Professionals:

Computer and Mathematical Occupations

Includes occupations concerned with the application of mathematical knowledge in the conducting of research and development and related activities and occupations concerned with utilization of the computer in the analysis and solution of business, scientific, engineering and other technical problems.

Architecture and Engineering Occupations

Includes occupations concerned with the application of fundamental architectural and engineering principles in the design and construction of building, equipment and processing systems, highways and roads, and utilization of land areas.

Life, Physical, and Social Science Occupations

This category includes occupations concerned with research pertaining to the physical universe and living organisms to increase basic knowledge. Also included are occupations concerned with human society and its characteristic elements, such as origin or age, and with economic and social relations and institutions involved in human's existence as a member of an organized community.

Community, Social Services, and Religious Occupations

Includes occupations concerned with giving assistance to individuals and groups with problems, such as poverty, illness, family maladjustment, anti-social behavior, and inadequate housing; and organizing and supervising social, recreational and cultural activities. Also includes occupations involving conducting religious worship and performing other spiritual functions associated with beliefs and practices of religious faith or denomination.

Legal Occupations

Includes occupations concerned with the application of principles related to statute law and its administration. Includes occupations that preside over judicial proceedings, conduct litigation, draw up legal documents, give legal advice and perform other legal functions.

Education, Training and Library Occupations

Includes occupations concerned with teaching in kindergarten, elementary and secondary schools including schools for: exceptional or persons with disabilities; includes post-secondary teachers. Includes occupations concerned with library and archival sciences including public and private libraries and archives, and with maintaining museums, galleries, and related exhibits.

Arts, Design, Entertainment, and Media Occupations

Includes occupations concerned with writing publicity articles and press releases, and announcing radio and television news, commercials, and station identifications with editing and reporting news items and features; and with creating and executing artistic works in a personally interpreted fashion.

Healthcare Practitioners

Includes occupations involving preventing and diagnosing human ailments and prescribing and giving medical and surgical treatment for diseases and illnesses; also includes occupations involving diagnosing and treating diseases and disorders of animals. (Includes occupations concerned with compounding drugs; providing technical health services to

assist physicians/dentists; planning food service or nutritional programs; and giving health treatments)

Registered Nurses

Includes occupations involving the planning, delivery and evaluation of nursing care and a wide variety of nursing services including health maintenance and preventing of illness; and treatment of illness under a physicians instruction; Licensed Practical Nurses are classified under Health Technicians and Technologists.

4) Technicians:

Health Technologists

Includes occupations concerned with carrying out technological and technical functions in a medical specification or obtaining data for use in diagnosis, treatment, and control of disease.

Drafters, Engineering, and Mapping Technologists

Includes occupations concerned with assisting engineers in both laboratory and production activities. Performs technical tasks under the general supervision of an engineer or drafter, using occupation specific knowledge, principles, and techniques.

Life, Physical, and Social Science Technologists

Includes occupations concerned with assisting life, physical, and social scientists in both laboratory and production activities. Performs technical tasks under the general supervision of a scientist, using occupation specific knowledge, principles, and techniques.

5) Administrative Support:

Administrative Support Supervisors

First line supervisors and managers in office and administrative support occupations.

Administrative Support Occupations

Includes occupations concerned with preparing, transcribing, transferring, and preserving written communications and records; collecting accounts; gathering and distributing information; operating office machines and electronic data processing equipment; storing, distributing, and accounting for stores of materials; operating telephone switchboards; distributing mail and delivering messages.

6) Protective Service:

Protective Service Supervisors

First line supervisors and managers in protective service occupations.

Protective Service Occupations

Includes occupations which maintain custody of prisoners in jails, reformatories, or penitentiaries; protect public and private property; maintain law and order in a municipality, rural, or unincorporated district; provide protection against fire, accidents, and other emergencies.

7) Service:

Service Supervisors

First line supervisors and managers in service occupations.

Healthcare Support Occupations

Includes occupations primarily concerned with the care of patients in medical, psychiatric and home health environments. Care involves maintaining general patient hygiene, safety, nutrition, social interaction and assisting health practitioners.

Food and Beverage Occupations

Includes occupations primarily concerned with catering services; cooking and preparing food and beverages; serving food and beverages; and cleaning dishes and cookware.

Building and Grounds Occupations

Includes occupations concerned with maintaining cleanliness in establishments; controlling pests and vermin; cleaning building interiors and equipment; and maintaining landscape and grounds.

Personal Care Occupations

Occupations concerned with providing personal services such as ushering and ticket taking in theaters and lobbies; providing funeral services; washing, drying, and styling hair; giving beauty treatments to patrons; and ushering and arranging for patrons comfort on tours, aboard ships and airplanes.

8) Skilled Craft:

Skilled Craft Supervisors

First line supervisors and managers in skilled craft occupations.

Farming, Fishing, and Forestry Occupations

Includes occupations concerned with the production, propagation, gathering and catching of animals (land and aquatic), animal products, plant products (crop, timber and ornamental) & the provision of services associated with agricultural production, and game farms, fisheries and wildlife conservation.

Construction and Extraction Occupations

Includes occupations concerned with constructing, altering and maintaining buildings, other structures, roads, bridges, pipelines and similar projects.

Installation, Maintenance, and Repair Occupations

Includes occupations concerned with the adjustment, maintenance, part replacement, and repair of tools, equipment, and machines.

Production Occupations

This group includes occupations requiring a high degree of precision in the tasks performed, for the attainment of standards and occupations concerned with the operation, setup, and tending of machines and hand production work usually in a factory or other fixed place of business.

Transportation and Material Moving Occupations

Includes occupations concerned with operating and controlling equipment used to facilitate the movement of people or materials.

The Department managers have made realistic estimates regarding future vacancies and projections for equitable representation based on the population percentage of under-utilized groups in North Carolina. The Department of Correction will continue working toward realizing these placement goals for 2011 and the upcoming years, as detailed in the job estimates presented in this plan.

Program Activities

Program Activities

Program Activities and strategies shall be implemented to accomplish program objectives. These strategies shall include, but are not limited to, the following:

- **Recruitment** procedures to attract a diverse pool of applicants to all occupational categories;
- **Selection** procedures designed to ensure that all of the steps are nondiscriminatory and job related;
- **Hiring process** designed to include consistent information for new hires regarding employment conditions (e.g., type of appointment, salary);
- **Promotion** procedures designed to enhance upward mobility and fully utilize the skills of the existing workforce;
- **Training** procedures designed to enhance employee development and advancement opportunities;
- **Compensation and benefits** procedures designed to review benefits; monitor salaries; and analyze practices in order to determine trends; and to ensure that all employees receive compensation and benefits without discrimination;
- **Performance appraisal**, a system to hold managers and supervisors accountable for the progress of the agency's or university's EEO program; to establish, maintain, and apply employee performance standards that are free from bias;
- **Disciplinary process and implementation** designed to provide equitable treatment for all employees in accordance with the state's discipline policy. The EEO Officers and Employee Relations Section will work together to ensure fairness.
- **Transfer and/or separation** analysis designed to identify trends and patterns measures that impact on underutilized groups;
- **Grievances procedures** to ensure fair and equitable review of complaints in accordance with agency or university procedures;
- **EEOI**, a process to enroll managers and supervisors in the Equal Employment Opportunity Institute (EEOI), an EEO educational and diversity program, as defined by N. C. General Statute 126-16.1.

Grievance Procedure

EEO GRIEVANCE/COMPLAINT PROCEDURE

Discrimination Grievance

An applicant, employee, or former employee who has reason to believe that employment, promotion, demotion, layoff, termination of employment, transfer, compensation, or training was a result of race, color, sex, religion, creed, national origin, age, genetic information, or disabling condition, except where a bona fide occupational qualification requires, shall have the right to file a complaint directly to the:

**Equal Employment Opportunity Office
North Carolina Department of Correction
214 West Jones Street
4203 Mail Service Center
Raleigh, North Carolina 27699 - 4203
(919) 716-3700**

OR file a petition for a contested case hearing pursuant to G.S. 150B-23 with the:

**Office of Administrative Hearings (OAH)
6714 Mail Service Center
Raleigh, North Carolina 27699 - 6714**

Employees or applicants can file charges with Equal Employment Opportunity Commission (EEOC) within 300 days of the discriminatory act; provided that OAH and or the Department's internal grievance procedure has given notification that its processing of the charge has been finalized. The addresses are:

**Equal Employment Opportunity Commission
1309 Annapolis Drive
Charlotte, North Carolina 28202**

**Equal Employment Opportunity Commission
129 West Trade Street, Suite 400
Charlotte, North Carolina 28202**

**Equal Employment Opportunity Commission
2303 West Meadowview Road (Suite 201)
Greensboro, NC 27405-7813**

If the individual chooses to file an internal complaint with the Department's EEO Office, a thorough investigation shall be conducted and recommendations made, as appropriate. During the review of a claim of discrimination at the departmental level, an attorney will not represent the agency. While the employee may wish to consult an attorney or other individuals or organizations for advice and/or information during the grievance process, the agency shall only communicate with the employee.

If the individual files directly with the Office of Administrative Hearings, the individual shall have a hearing before an Administrative Law Judge with the Office of Administrative Hearings. The recommended decision shall be submitted for final review and action to the State Personnel Commission.

In either event, whether filing directly to the EEO Office or the Office of Administrative Hearings, the individual shall file in writing within thirty (30) calendar days of the alleged act.

EEOI Institute

EQUAL EMPLOYMENT OPPORTUNITY INSTITUTE (EEOI)

In accordance with General Statutes (126-16.1) the Department of Correction is required to enroll supervisors and managers in the Equal Employment Opportunity Institute (EEOI). The Equal Employment Opportunity Institute is intended to provide executive managers and supervisors with practical training to assist them in becoming more effective managers and supervisors of an increasingly diverse workforce.

Supervisors and managers hired, promoted, or appointed shall enroll in the EEOI within one year of their appointment. The training shall be 20 hours, conducted over three (3) days.

The EEOI is designed to do the following:

1. address and discuss the history and evolution of equal employment opportunity concepts and principles;
2. assist managers and supervisors to incorporate their equal employment opportunity responsibilities with other management responsibilities;
3. expose managers and supervisors to workforce equity and fairness issues;
4. review and discuss accepted management practices for valuing and managing diversity in the workplace;
5. provide understanding of how diversity and differences can increase productivity and efficiency; and
6. empower managers and supervisors to remain adaptable and flexible to meet the challenges of an ever changing and more diverse workforce.

Administration/Implementation of EEOI

Office of Staff Development and Training (OSDT) in partnership with Office of State Personnel (OSP) shall conduct and coordinate the EEOI training.

Enrollment Process

The Office of Staff Development and Training shall be responsible for the coordination of the enrollment process. The enrollment process shall be as follows:

1. "Eligible Candidate Lists" are prepared by the Office of State Personnel EEO Diversity & Compliance Division and sent to the Department of Correction for verification. This verification process takes place at OSDT and is compiled in conjunction with the Training Coordinators of each Division. The final list of Eligible Candidates is then returned to OSP EEO Diversity & Compliance Division.
2. OSDT will schedule EEOI training at the five Regional Training Centers throughout the state.

3. Once OSDT has scheduled EEOI training, candidates will receive a letter of notification. These letters will be sent to Division Training Coordinators for distribution.
4. Division Training Coordinators are encouraged to enroll incumbents in EEOI training. In order to enroll incumbents the following information should be provided:

*Name, Job Title, Pay Grade, Race, Sex, Staff ID, Age, Date of Last Promotion,
Work Location (Including four digit budget code), and County*

Definitions

1. **Supervisory positions:** Positions in which the majority of the work performed is directing the work of other positions. These employees have the authority to assign work and to evaluate work; to hire employees; to discipline or dismiss employees; or have significant input into such actions.
2. **Managerial positions:** Positions which manage established divisions or subdivisions of a department, agency or university. These employees direct the work of one or more supervisors and have the authority to hire, reward, discipline, or discharge employees. These employees may also provide suggestions for changes in policy to senior executives with policy-making authority.
3. **Executive managerial:** Positions are defined as policy making or managerial exempt positions. Employees in these positions are agency/department heads, deputies, and other policy makers. The employees in executive managerial positions are usually appointed or elected.

NOTE: For the purposes of this policy, the definition of supervisors, managers, and executives, also includes the setting of performance expectations, conducting performance appraisal conferences and evaluating performance.

4. **EEOI Candidates:** Includes all managers and supervisors as defined above.
5. **Training Level 1:** The full EEOI Training designed for those employees and supervisors. Management level employees as identified above may participate on a space availability basis.
6. **Training Level 2:** An abbreviated course designed for executive level managers. Executive level managers as identified above may participate on a space availability basis.

Evaluation Mechanism

Evaluation Mechanism

Recruitment

The Department of Correction recognizes that in order for an agency to best serve all segments of the population, it must employ citizens from all segments representative of the population. To facilitate the implementation of the EEO Program, the Department has established five Regional Employment Offices throughout the state that are designated as the centralized recruiting and referral agency to recruit applicants for employment. Regional Employment Offices will establish communication with recruitment services, such as; minority, disability, older adults and female oriented agencies and organizations to include colleges, universities, and news media.

As job vacancies occur, which require outside hiring, the vacant position will be posted in accordance with G.S. 126-7.1, and any other applicable state law. If the number of qualified under-utilized groups is insufficient, the Regional Employment Office, through established channels of communication, will notify normal recruitment sources, professional and community based organizations, colleges, universities, etc.

The Department will instruct divisions/facilities/offices to continue to take those proactive steps to increase the numbers of minorities in the department in those underutilized classifications. Even in these difficult budgetary times, attention must be paid to past inequities, such as promotions and pay.

Americans with Disabilities Act (ADA) of 1990 and the Americans with Disabilities Act (ADAA) of 2008

The Department of Correction shall comply with the Americans with Disabilities Act. Specifically, the employment provisions of Title I prohibiting discrimination against a qualified individual with a disability in the job application process, hiring, termination, promotion, compensation, job training, and other terms, conditions or privileges of employment. An individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such impairment.
- A qualified individual with a disability is an individual with a disability who meets the skill, experience, education and other job-related requirements of a position held or desired, and who, with or without a reasonable accommodation, can perform the essential functions of the position. Reasonable accommodation may include, but is not limited to:
- Making existing facilities used by employees readily accessible to and usable by an individual with a disabling condition;
- Job restructuring, modified work schedules, reassignment to a vacant position; and
- Acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies, and the provision of qualified readers or interpreters.

The Department will make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless the accommodation would impose an undue hardship on the operation of the Department's business.

Interview and Selection

The Department of Correction utilizes a structured interview with job-related questions and bench mark answers in accordance with the merit-based recruitment and selection process. All persons interviewing applicants for possible employment shall use Departmental approved procedures and tools to document interview results and selections. Each correctional unit or branch will be expected to maintain documentation reflecting the specific reasons for selection or rejection. Applicants not selected shall receive timely notification.

Position Classification

The Department of Correction, with the assistance of the Office of State Personnel Position Management Section, will conduct periodic reviews of job classifications. Individual position descriptions are evaluated as requested by Departmental Management. These reviews will help correct inaccurate position descriptions and ensure that positions are allocated to their appropriate classification. It will also ensure that position descriptions do not include factors that may arbitrarily discriminate against protected groups.

Staff Development and Training

The Department of Correction Office of Staff Development and Training will communicate with managers, designated training coordinators, and employees for training provided by the Department. Managers will encourage employees to take advantage of training and educational opportunities, when possible, in order to ensure that training and development is provided throughout the employees' career.

Employees may qualify for tuition refunds administered by the Office of Staff Development and Training. Where funds are available, opportunities for refund will be made known to employees providing further motivation towards career development. If funds are not available, it is possible that employees may qualify for educational leave. This may be granted if courses are not offered during off-duty hours.

Management Training

The Department of Correction – Office of Staff Development and Training shall conduct and enroll managers and supervisors in the EEO Institute (EEOI) training. This training focuses on EEO concepts, laws, and principles and insures that managers and supervisors have a working knowledge of, and become more sensitive to diversity and workplace equality issues.

Upward Mobility

Departmental transfers and promotions are methods that can be used for upward mobility and increase numbers of staff who are in the underutilized groups. The policy of the Department of Correction is to maintain a merit-based recruitment and selection process based on job-related criteria. This process shall be consistently applied in a non-discriminatory manner, promote fairness, diversity, integrity and comply with all Federal and State laws, regulations and policies.

Performance Management System

The Department of Correction shall administer the Performance Management System, The Appraisal Process (TAP), according to policies and procedures established by the Office of State Personnel and which is tailored for application within this agency and approved by State Personnel. In evaluating performance, every attempt will be made to overcome the potential for rater bias. All managers and supervisors will be trained in the use of BEACON.

Grievance

Grievance information is provided by the Personnel Office and/or appropriate Department supervisory personnel as needed or requested by employees. Information normally requested and provided consists of the established Departmental grievance procedures, as well as other actions the employee may take in filing a grievance.

Auditing and Reporting Mechanism

Auditing and Reporting

An evaluation of the Department's progress is important in assessing the overall effectiveness of its EEO Program. This evaluation will show how well the Department is proceeding with established goals and timetables. Reports will be made annually to the Equal Employment Opportunity Office for review and comments.

The following reports will be requested and/or compiled by the EEO Office to assist in the monitoring process:

Type of Report

1. Applicant Recruitment Placement Report (AA-100)

2. Copy of employee disciplinary action

3. Job applicants by location

4. Employment recommendations by location

5. EEO Plan update by location

Frequency

Submitted for each
vacant position being
filled except
reinstatement from
reduction-in-force

As appropriate

As appropriate

As appropriate

As appropriate

Reduction-in-Force (RIF)

REDUCTION-IN-FORCE POLICY

Reduction-in-force is the separation of an employee or employees as a result of the shortage of funds or work, the abolishment of a position(s), or other changes in organizational structure. To provide all employees with a basic understanding of the responsibilities of the Department and the rights of the employee, the following policy has been developed. This document shall be provided to managers in all work units, posted on work unit bulletin boards and posted on the Department's website.

When a reduction-in-force is to occur, careful consideration shall be given to the impact it will have on diversification of the workforce within a unit location and the Department as a whole. It is imperative that managers develop equitable plans for reduction-in-force to preserve equal employment opportunities for all persons and to ensure more diversity in all aspects of the state's workforce.

Policy

It is the policy of the Department of Correction to exhaust every feasible alternative to avoid reduction-in-force. In those instances when reduction-in-force cannot be avoided, decisions will be made on a fair and systematic basis. Consideration for retention of employees at work unit locations shall be determined based on the following elements:

- Type of appointment;
- Relative efficiency supported by the Performance Management System instrument;
- Actual or potential adverse impact on protected group individuals; and
- Length of service.

The relative weight of these elements may vary because of the uniqueness of the Department of Correction and the diversity of responsibility of positions within the divisions of the Department. However, no temporary, probationary, or trainee employee in the initial six (6) months of trainee status shall be retained in classes at a given work unit location where employees with a permanent appointment (those who have satisfactory completed a probationary or equivalent trial period) must be separated in the same or related class.

NOTE: *In determining length of service, an eligible veteran shall be granted one (1) year of state service for each year or fraction thereof of military service, up to a maximum of five (5) years. Eligible veterans include individuals that served in the Armed Forces of the United States on active duty, for reasons other than training, during periods of war, and were discharged under other than dishonorable conditions. Also included are disabled veterans, spouses of disabled veterans, and the surviving spouse or dependent(s) of a veteran who died on active duty during periods of war either directly or indirectly as the result of such service. Also included are veterans who suffer disabling injuries through service-related reasons during peacetime, the spouse of such veterans and the surviving spouse or dependent(s) of a veteran who died through service-related reasons during peacetime. Periods of war include December 7, 1941 through May 15, 1975, June 6, 1983 through December 1, 1987, December 20, 1989 through January 31, 1990 and August 2, 1990 through the date approved by Congress or the President as the ending date for hostilities for the War on Terrorism. Or, any other campaign, expedition or engagement for which a campaign badge or medal is authorized by the United States Department of Defense.*

Eligibility

This policy applies to all employees in permanent (half-time or more) positions subject to the State Personnel Act. Also eligible are employees with trainee appointment who have been employed (6) months or more and employees who had a permanent appointment prior to entering a trainee appointment. Employees in positions designated as policy-making/managerial exempt who are removed from their position for reasons other than just cause are not entitled to reduction-in-force priority, but may be entitled to priority re-employment rights

based on the policy-making/managerial exempt priority consideration provided in G.S. 126-5(e)(1)(2) and severance salary continuation.

Employees with temporary, probationary, or trainee appointments (less than 6 months service) and employees with time-limited permanent, temporary and intermittent appointments are not eligible for priority re-employment rights and severance pay.

Responsibility of the Department

The Department of Correction, prior to reduction-in-force, shall explore any and all feasible alternatives such as a hiring freeze, spending restrictions or other administratively sound alternatives. When it has been determined that there is no alternative to reduction-in-force, authorized managers shall complete the following steps:

1. Determine the number of positions that must be eliminated to meet the established goal.
2. Determine the feasibility of eliminating an entire program or parts of a program.
3. Identify areas where the number of positions must be reduced or eliminated.
4. Identify the classification of positions to be eliminated to determine whether personnel can be interchanged with other work units. Before deletion, attention should be given to using vacant positions to utilize employees who would otherwise be separated.
5. Explore all measures that would avoid the involuntary separation of employees.
6. Evaluate employees subject to reduction-in-force by using the following criteria, where possible, and others where appropriate:
 - a. Needs of agency to deliver services
 - b. Relative skills, knowledge, productivity and value of employees (refer to documentation available from the Performance Management System)
 - c. Length of service of employees
 - d. Type of appointment
 - e. Relative efficiency.
7. Document steps followed in reduction-in-force. After considering all of the above, employees affected by the reduction-in-force shall immediately be notified verbally and by letter of action. The letter shall include the following:
 - the effective date of the action
 - the reason for the action
 - the employees priority re-employment consideration availability
 - the employees appeal rights

The agency shall provide the affected employees with a minimum of thirty (30) calendar days written notification of imminent separation prior to the effective date of the reduction in force. The affected employee shall also be notified through a one-on-one conference. The employee shall be furnished a copy of the agency's reduction in force policy, the guidelines for "priority re-employment consideration" as outlined in the State Personnel Manual, appeal rights, if applicable, vacation leave, sick leave, and health insurance benefits explanations.

Re-Employment

Employees eligible for re-employment rights include:

1. employees in permanent (half-time or more) positions subject to the State Personnel Act,

2. employees with trainee appointment who have been employed six (6) months or more in a position subject to the State Personnel Act, and
3. employees who had a permanent appointment to a position subject to the State Personnel Act prior to entering a trainee appointment.

Employees in positions designated as policy-making/managerial exempt who are removed from their position for reasons other than just cause are not entitled to reduction in force priority, but may be entitled to priority re-employment rights based on the policy-making/managerial exempt priority consideration in G.S. 126-5(e)(1)(2) and severance salary continuation.

Employees with temporary, probationary, or trainee appointment (less than 6 months service) and employees with time-limited permanent, temporary and intermittent appointments are not eligible for priority re-employment rights and severance pay.

RIF Appeals

A non-probationary employee separated due to reduction-in-force shall have the right to file an internal appeal to the Personnel Director for a review to assure that systematic procedures were applied. This appeal shall be in writing and must be submitted within fifteen (15) calendar days of receipt of the written notice of reduction-in-force. The written appeal must be received in the Personnel Director's Office on or before the fifteenth (15th) calendar day following receipt of the written notice of imminent separation due to reduction-in-force in order to be considered timely filed. Failure to comply shall mean that the appeal will not be considered.

A career employee separated due to reduction-in-force shall have the right to further appeal to the State Personnel Commission for a review to assure that systematic procedures were applied. An employee wishing to appeal must file his/her appeal with the

**Office of Administrative Hearings (OAH)
6714 Mail Service Center
Raleigh, North Carolina 27699- 6714**

and must also serve a copy of the appeal by certified mail on the agency's registered agent

**NC Department of Correction
Attention: LaVee Hamer, General Counsel to the Secretary
214 West Jones Street
4201 Mail Service Center
Raleigh, North Carolina 27699-4201**

within thirty (30) calendar days of receipt of the written notice of reduction-in-force.

Procedures for Monitoring

PROCEDURES FOR MONITORING

The Department commits to an ongoing evaluation method to assess program effectiveness, and to monitor personnel policies and employment practices in an effort to facilitate workforce balance and fairness in all terms and conditions of employment. Specifically, the Department, through its various divisions shall:

- Recruit, hire, train, and promote qualified persons in all occupational categories and job classifications without regard to race, color, religion, sex, creed, national origin, age, genetic information, political affiliation, sexual orientation, and disabling condition.
- Base hiring and promotion decisions upon valid requirements and criteria which are related and necessary to perform the expectations of the job;
- Administer all personnel actions including: compensation, benefits, tuition assistance, training, transfer, reduction-in-workforce, termination, and promotion, without regard to: race, color, religion, sex, creed, national origin, age, genetic information, political affiliation, sexual orientation, or disabling condition; and
- Assure a non-discriminatory work environment.

We further emphasize our commitment to a policy of non-discrimination through systems evaluation to measure program effectiveness, to monitor personnel policies and employment practices and to ensure equal employment with regard to salary opportunity, training, promotion, transfer, compensation, retention, and all other terms and conditions of employment.

Questions or comments concerning this policy should be referred to:

North Carolina Department of Correction
Equal Employment Opportunity Office
214 West Jones Street
4201 Mail Service Center
Raleigh, North Carolina 27699-4201
(919) 716-3700

Equal Employment Opportunity Policy

Subject:

EQUAL EMPLOYMENT OPPORTUNITY POLICY

PURPOSE

The Department of Correction's Equal Employment Opportunity program is intended to create a workforce climate that is responsive and respectful of fairness and equity for applicants and employees which ensures compliance with State and Federal guidelines. Further, the purpose is to provide guidance in the development of a plan to facilitate greater utilization of all persons. Special emphasis is given protected groups, i.e., minorities, women, and disabled persons, by identifying previously underutilized groups in the workforce, making special effort toward their recruitment, selection, development, and upward mobility.

POLICY

It is the policy of the Department of Correction to provide equal employment to all employees and qualified applicants without regard to race, sex, religion, national origin, age, genetic information, political affiliation¹, sexual orientation², and disability, except where age, sex, or physical requirements constitute bona fide occupational qualifications.

1. Direct appeal to the State Personnel Commission on the basis of political affiliation is provided only to employees who have achieved career status pursuant to G.S. 126-1A.
2. Complaints relating to Sexual Orientation are limited to the agency's internal grievance process.

GENERAL PROVISIONS

The Department commits to an ongoing evaluation method to assess program effectiveness, to monitor personnel policies and employment practices in an effort to facilitate workforce balance and fairness in all terms and conditions of employment. Specifically, the Department, through its various divisions shall:

1. Recruit, hire, train, and promote persons in all occupational categories and job classification without regard to race, color, gender, religion, national origin, age, or disability, genetic information, sexual orientation, and political affiliation;
2. Base hiring and promotion decisions upon valid requirements and criteria which are related and necessary to perform the expectations of the job;
3. Administer all personnel actions including: compensation, benefits, tuition assistance, training, transfer, reduction-in-force, terminations, and promotion. Without regard to: race, color, religion, gender, national origin, age, disability, genetic information, sexual orientation, and political affiliation; and
4. Assure a nondiscriminatory work environment.

Subject:

EQUAL EMPLOYMENT OPPORTUNITY POLICY

In doing so, the Department of Correction, is in compliance with the following as amended:

1. Title VII of Civil Rights Acts of 1964;
2. Federal Executive Order 11246;
3. The Equal Pay Act of 1963;
4. The Age Discrimination in Employment Act of 1967;
5. Title V of the Rehabilitation Act of 1973;
6. The Veterans Preference Act;
7. Governor's Executive Order #76, Amendment to Executive Order #18 and Executive Order #22;
8. The Americans with Disabilities Act of 1990, and the Americans with Disabilities Act Amendments Act of 2008.
9. The Lilly Ledbetter Fair Pay Act of 2009
10. Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA)

Equal Employment Opportunity guidelines also includes prohibiting retaliatory actions against employees or applicants for employment because that person filed a charge, testified, assisted or participated, in any manner, in a hearing, proceeding, investigation, or employment discrimination. The Equal Employment Opportunity (EEO) Office of the Division of Human Resources will be responsible for program implementation and administration to include update and revision of the Equal Employment Plan on an annual basis.

PROGRAM DEVELOPMENT, IMPLEMENTATION AND COMPLIANCE

The EEO Office is responsible for annually developing the Equal Employment Opportunity Plan. The plan consists of establishing specific goals and timetables for the reduction and eventual elimination of underutilization of protected groups, in all standard occupational classification. Implementation of and compliance with this plan is the responsibility of supervisor, managers, and directors. The organization of the plan is composed of four steps:

1. Workforce/demographic analysis which profiles the distribution of workers in the department by race, gender, and persons reporting disabilities, compared with percentage of North Carolina State demographics in each ethnic category. The underutilization is calculated based on that comparison.
2. Estimate or project future job vacancies in each occupational classification where underutilization has occurred, and project the department's capacity to eliminate or reduce the underutilization.

Subject:

EQUAL EMPLOYMENT OPPORTUNITY POLICY

3. Establish placement goals for reduction of underutilization in each category to include timetables that identify specific dates for achievement.
4. Develop action plan to facilitate the likelihood of goal achievement within the established time frames.

INTERNAL DISSEMINATION

The EEO Policy shall be posted in a conspicuous area, accessible to all employees and applicants for review on an as needed basis and is also available electronically on the EEO Office webpage and the online DOC Personnel Manual.

EXTERNAL DISSEMINATION

The Department, through its Equal Employment Opportunity Manager, will notify critical recruitment resources, which include minorities, females, disability organizations, community leaders, and educational institutions to disseminate information to each community regarding the Department's Equal Employment Opportunity Program.

EQUAL EMPLOYMENT OPPORTUNITY INSTITUTE (EEOI)

In accordance with General Statutes (126-16.1) the Department of Correction is required to enroll supervisors and managers in the Equal Employment Opportunity Institute (EEOI). The EEOI is intended to provide executive managers and supervisors with practical training to assist them in becoming more effective managers and supervisors of an increasingly diverse workforce. Further, the EEOI is intended to increase understanding among managers and supervisors, regarding their role and responsibilities in managing a workforce composed of individuals from different backgrounds and cultures.

Supervisors and managers shall enroll in the EEOI within one (1) year of their appointment. The training shall be 20 hours, conducted over three (3) days. The EEOI is designed to:

1. Address and discuss the history and evolution of equal employment opportunity concepts and principles;
2. Assist managers and supervisors to incorporate their equal employment opportunity responsibilities with other management responsibilities;
3. Expose managers and supervisors to workforce equity and fairness issues;
4. Review and discuss accepted management practices for valuing and managing diversity in the workplace;

Subject:

EQUAL EMPLOYMENT OPPORTUNITY POLICY

5. Provide understanding of how diversity and differences can increase productivity and efficiency; and
6. Empower managers and supervisors to remain adaptable and flexible to meet the challenges of an ever changing and more diverse workforce.

Definitions

1. **Supervisory positions:** Positions in which the majority of the work performed is directing the work of other positions. These employees have the authority to assign work and to evaluate work; to hire employees; to discipline or dismiss employees; or have significant input into such actions.
2. **Managerial positions:** Positions which manage established divisions or subdivisions of a department, agency or university. These employees direct the work of one or more supervisors and have the authority to hire, reward, discipline, or discharge employees. These employees may also provide suggestions for changes in policy to senior executives with policy-making authority.
3. **Executive managerial:** Positions are defined as policy making or managerial exempt positions. Employees in these positions are agency/department heads, deputies, and other policy makers. The employees in executive managerial positions are usually appointed or elected.

NOTE: For the purposes of this policy, the definition of supervisors, managers, and executives, also includes the setting of performance expectations, conducting performance appraisal conferences and evaluating performance.

4. **EEOI Candidates:** Includes all managers and supervisors as defined above.
5. **Training Level 1:** The full EEOI Training designed for those employees and supervisors. Management level employees as identified above may participate on a space availability basis.
6. **Training Level 2:** An abbreviated course designed for executive level managers. Executive level managers as identified above may participate on a space availability basis.

Subject:

EQUAL EMPLOYMENT OPPORTUNITY POLICY

7. **Enroll:** For the purposes of this policy is defined as the act of attending and completing the EEOI.

Administration/Implementation of EEOI

The Office of Staff Development and Training (OSDT) in partnership with the Office of State Personnel EEO, Diversity & Compliance Division shall conduct and coordinate the training.

Enrollment Process

The Office of Staff Development and Training (OSDT) shall be responsible for the coordination of the enrollment process. The enrollment process shall be as follows:

1. Eligible Candidate Lists are prepared by OSP EEO Diversity & Compliance Division and sent to the Department of Correction for verification. This verification process takes place at OSDT and is completed in conjunction with the Training Coordinators of each Division. The final list of Eligible Candidates is then returned to the OSP EEO, Diversity & Compliance Division.
2. OSP EEO, Diversity & Compliance Division schedules EEOI training at various locations around the state throughout the year. OSDT will work with Divisional and Local Field Training Coordinators to schedule candidates within driving distance of their work location. If this is not possible, OSDT will fund the expense of the candidate.
3. Once OSDT has received information concerning the scheduling of a candidate, that candidate will be enrolled for EEOI with Equal Opportunity Services. EEO, Diversity & Compliance Division will provide further information concerning the EEOI training to the participants. Letters for the participants will be sent to the Field Training Coordinators for distribution by the Coordinators.

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EEO GRIEVANCE/COMPLAINT PROCEDURE

Discrimination Grievance

An applicant, employee, or former employee who has reason to believe that employment, promotion, demotion, layoff, termination of employment, transfer, compensation, or training was a result of age, race, sex, color, national origin, religion, creed, genetic information, political affiliation¹, sexual orientation², or disability, except where age, sex, or physical requirements constitute bona fide occupational qualifications, shall have the right to grieve directly to the:

Department of Correction
Equal Employment Opportunity Office
214 W. Jones Street
Raleigh, NC 27603
Mailing Address: 4203 Mail Service Center, Raleigh, NC 27699-4203

1. Direct appeal to the State Personnel Commission on the basis of political affiliation is provided only to employees who have achieved career status pursuant to G.S. 126-1A.
2. Complaints relating to Sexual Orientation are limited to the agency's internal grievance process.

OR, file a petition for a contested case hearing pursuant to G.S. 150B-23 with the:

Office of Administrative Hearings (OAH)
1711 New Hope Church Road
Raleigh, NC 27609
Mailing Address: 6714 Mail Service Center, Raleigh, NC 27699-6714

A fee must be paid to OAH when the petition is filed, unless the fee is waived by OAH.

Employees or applicants shall file charges with Equal Employment Opportunity Commission (EEOC) within 300 days of the discriminatory act, provided that OAH and or the department internal grievance procedure have given notification that it's processing of the charge has been finalized. The address is:

Equal Employment Opportunity Commission
129 West Trade Street, Suite 400
Charlotte, North Carolina 28202

or

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Equal Employment Opportunity Commission
1309 Annapolis Drive
Raleigh, North Carolina 27608

If the individual chooses to grieve to the Department's EEO Office, a thorough investigation shall be conducted and recommendations made as appropriate. During the review of a discrimination grievance at the Departmental level, the agency will not be represented by an attorney. While the employee may wish to consult an attorney or other individuals or organizations for advice and/or information during the grievance process, the agency shall only communicate with the employee.

If the individual files directly with the OAH, the investigation shall include a hearing before an Administrative Law Judge with the OAH. The recommended decision shall be submitted for final review and action to the State Personnel Commission.

In either event, whether grieving directly to the EEO Office or to the OAH, the individual shall grieve in writing, the alleged act of discrimination within thirty (30) calendar days of the alleged act.



Alvin W. Keller, Jr., Secretary
Department of Correction

28 February 2011

Date

Unlawful Workplace Harassment

Subject:

**UNLAWFUL WORKPLACE HARASSMENT
AND PROFESSIONAL CONDUCT POLICY**

POLICY

Unlawful workplace harassment and retaliation are strictly prohibited.

The Department of Correction is committed to providing a workplace environment that reasonably accommodates all qualified employees and agents of the Department so that they may fulfill their essential job functions and carry out the mission of the Department of Correction in a professional manner and to the best of their ability. All employees and agents of the Department are expected to act in a manner consistent with standards of personal conduct that contributes to a professional working environment in all departmental workplaces. The Department has ZERO TOLERANCE for violations of the unlawful workplace harassment policy and for retaliation.

Prohibited unlawful workplace harassment includes unwelcome or unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color, genetic information, sexual orientation¹, or disabling condition and which creates a hostile work environment or constitutes quid pro quo sexual harassment.

1. Complaints relating to Sexual Orientation are limited to the agency's internal grievance process.

DEFINITIONS

1. **Aggrieved individual:** Any individual, including any applicant, agent or employee (whether current or former, full-time or part-time, permanent, temporary or probationary), who reasonably believes that he or she has been subjected to conduct by any employee or agent of the Department in violation of the departmental unlawful workplace harassment policy.
2. **Complainant:** An aggrieved individual who files a complaint or (if appropriate) on whose behalf a complaint is made with the Department, which states allegations of concerning the possible violation of the Department's unlawful workplace harassment policy.
3. **Respondent:** An individual against whom allegations are filed with the Department concerning a possible violation of the Department's unlawful workplace harassment policy.

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4. **Hostile work environment:** An environment that a reasonable person would find hostile or abusive and one which the person who is the object of the harassment in fact perceives to be hostile and abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, the severity of the conduct, and whether the conduct is physically threatening or humiliating, or unreasonably interferes with an employee's work performance.
5. **Quid Pro Quo sexual harassment:** Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct when (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual.
6. **Vendor/Contractor:** Conduct towards an outside vendor or contractor that would constitute unlawful workplace harassment toward an employee could constitute unacceptable personal conduct.
7. **Retaliation:** Adverse action taken against an employee for engaging in legally protected activity, including an employee's opposition to conduct or action the employee reasonably believes constitutes unlawful workplace harassment.
8. **Interim Measures/Steps:** Temporary measures taken for the good of the agency pending completion of an investigation or remedial action. These measures are generally taken to minimize workplace disruption and assist in the timely resolution of a complaint investigation or completion of remedial action. Interim steps, including temporary reassignment or suspension of an employee, are not disciplinary actions. Interim measures do not indicate that any determination regarding the truth of the allegations or employee wrongdoing has been made.

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PROFESSIONAL AND ACCEPTABLE PERSONAL CONDUCT

It is the responsibility of every employee and agent of the Department to conduct himself or herself in a manner that contributes to a workplace environment that is not only free of unlawful workplace harassment but also advances the mission and goals of the Department and fosters a harmonious working environment that encourages all employees to perform at their best. The Department recognizes that unprofessional and unacceptable personal conduct affecting the workplace contributes to low employee morale, absenteeism, turnover and loss of productivity. It also erodes the public's trust and the agency's credibility in the community.

Every employee and agent of the Department is expected to conduct himself or herself in a professional manner in the workplace. Whenever there is a failure to abide by acceptable personal conduct standards the Department may take action, including disciplinary action, even if the conduct at issue does not rise to the level of *illegal* discrimination or harassment under state and federal law.

Examples of Prohibited and Legally Dangerous Conduct

The Department recognizes that a determination of whether particular speech or conduct violates the law is determined by many factors, including whether the speech or conduct was offensive to the person who experienced it. HOWEVER, the Department reminds all employees that engaging in any of the below listed activities may constitute unacceptable personal conduct without regard to whether it violates state or federal law, and the Department may take disciplinary action up to and including dismissal for engaging in it.

1. Threats of physical violence or harm; displaying items that imply such a threat;
2. Slurs, epithets, humiliating and derogatory jokes or comments concerning national origin, ethnicity, race, color, handicap, age, religion, creed or gender;
3. Off-color, sexually suggestive, sexist or risqué email, stories, jokes, items, songs, personal accounts, or pictures;
4. Questioning others about personal matters, including the nature, existence or details of relationships with spouses or lovers, sexual preferences or history;
5. Physical touching other than handshakes, including rubbing, hugging, stroking, kissing or grabbing any part of someone else's body or personal items on their body without their consent;

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6. Sexually aggressive conduct, including bumping, cornering or touching in any manner the area around (or clothing on) someone's buttocks, upper leg, thigh, crotch, chest or breasts; and
7. Sexual advances, requests for sexual favors, comments containing sexual language or references with sexual innuendo or implications, obscene gestures.

PROMPT INVESTIGATION, INTERIM MEASURES AND REMEDIAL ACTION

Complaints of alleged workplace harassment or retaliation will be promptly investigated and, as warranted, remedial action will be taken. Pending completion of an investigation, interim steps, such as temporary employee reassignment(s) and shift changes, may be taken. Interim measures are neither disciplinary action nor an indication of belief regarding the truth of allegations or the outcome of the investigation. If possible, the EEO Office and Personnel should be consulted prior to implementing an interim measure. However, when circumstances make such contact impracticable, appropriate level managers should take those steps reasonably believed necessary at the time, as directed by their chain-of-command and consistent with departmental policy.

CONFIDENTIALITY

By their nature, allegations concerning conduct that may violate the unlawful workplace harassment policy may have serious implications for the personal and professional lives of affected employees. The Department recognizes the concern employees have regarding their privacy and the confidentiality of personnel information. The Department also recognizes that both the accuser and accused deserve a fair investigation. Therefore, employees are directed that no confidential personnel or investigation information may be released other than as necessary to conduct the investigation or agency business in compliance with departmental policy and directives, and other applicable legal standards. Further, managers are admonished to be cautious regarding the transmittal of the sensitive information relative to allegations of unlawful workplace harassment so that the information does not inadvertently become known. Managers should NOT disclose the existence or nature of such allegations to anyone unless that individual has a business need to know the information or the manager is under an affirmative obligation to disclose the information (e.g., court order). Questions concerning whether information should be disclosed may be directed to the Department's Legal or EEO Office, or to appropriate counsel in the Attorney General's Office.

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IMMEDIATE DUTY TO REPORT AND ZERO TOLERANCE

Every departmental employee has a duty to report immediately conduct which he or she reasonably believes constitutes unlawful workplace harassment. The Department has a ZERO TOLERANCE policy for workplace harassment. The failure of an employee to report conduct that reasonably appears to violate the unlawful workplace harassment policy negatively impacts the Department's ability to identify and eliminate unlawful workplace harassment. Therefore, it is imperative that every employee report conduct he or she reasonably believes may violate the unlawful workplace harassment policy.

DIRECT REPORTING TO EEO OFFICE

A complaint or allegation concerning possible violation(s) of the unlawful workplace harassment policy may be submitted directly to the Department's EEO Office by filing online at <http://www.doc.state.nc.us/eoo/>, or by phone (919) 716-3700 or facsimile (919) 716-3958. No employee is required to submit a complaint of (or allegations concerning) unlawful workplace harassment to a supervisor against whom the allegations are made or involve. Upon receipt of a complaint, the EEO Office will advise an appropriate level of management regarding the complaint.

AN AGGRIEVED PARTY MUST REPORT COMPLAINTS WITHIN 30 DAYS OF CONDUCT

Any aggrieved individual who thinks that he or she has been subjected to conduct in violation of the unlawful workplace harassment policy must report it to an appropriate manager or the Department's EEO Office within 30 days of the alleged harassing conduct.

DUTY TO INVESTIGATE ALLEGATIONS

The Department is legally obligated to investigate all allegations that concern possible violations of the unlawful workplace harassment policy. Any supervisor who becomes aware of allegations that reasonably may constitute a violation of the unlawful workplace harassment policy must report the allegations to the EEO Office immediately by phone (to be followed by a written report) or facsimile report.

1. A supervisor must report the alleged violation even if the allegations concern conduct that occurred more than 30 days before the supervisor became aware of them.

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2. A supervisor must report the allegations even if the supervisor receives the information from an individual who is not under his or her supervision or chain of command
3. A supervisor must report the allegations even if the witness or complainant requests that the supervisor NOT report the matter.

The Department is aware that an employee may advise a supervisor of allegedly inappropriate conduct of another employee and then request that the supervisor take no action. In some cases an employee may request that they be allowed to resolve the matter directly with the offending party and without a report to the EEO Office or the chain-of-command. While the Department is sympathetic to an employee's desire for privacy, nevertheless, due to the serious legal implications of the situation and the Department's legal duty to investigate, the supervisor must report the allegations. It is the responsibility of the EEO Office to determine if the allegations require investigation or if other resolution efforts are appropriate.

UNSUBSTANTIATED COMPLAINTS

It is recognized that the very nature of workplace harassment circumstances may make it difficult or impossible to substantiate a particular complaint. Nevertheless, every aggrieved individual is strongly encouraged to report violations of the unlawful workplace harassment policy without regard to whether he or she is personally aware of corroborating evidence. The failure to report workplace harassment severely restricts the ability of the Department to identify and take remedial action to stop such conduct from continuing, and to prevent further harm. The Department recognizes that the inability to corroborate or substantiate a complaint does not necessarily mean the complaint was untruthful. However, where it is determined that an individual has made a complaint in willful disregard of the truth or has been intentionally dishonest, that individual may be subject to disciplinary action, as is true when any employee provides false, misleading, or known to be inaccurate or incomplete information in an investigation.

ANONYMOUS COMPLAINTS

Complaints that are submitted without identifying the complaining individual make it difficult, if not impossible, for the Department to adequately investigate, respond or take appropriate action. Employees with complaints are strongly encouraged to contact the EEO Office directly if there are specific concerns about filing a complaint.

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INFORMATION FOR THE RESPONDENT

An individual who is the subject of allegations of unlawful workplace harassment must be informed of the complaint, the specific allegations, the identity of the complainant(s), and given an opportunity to respond to the allegations. Additionally, at the conclusion of the investigation, the respondent is entitled to be advised that the investigation has concluded and its outcome.

FREE SPEECH

The Department respects the constitutionally protected right of free speech. However, conduct or language that constitutes unlawful workplace harassment is NOT legally protected as free speech.

CULTURAL DIVERSITY AND NOTICE TO OTHERS WHEN OFFENDED

The Department recognizes that on occasion employees engage in conversation or conduct with (or within sight or hearing of) co-workers at the workplace concerning current affairs or other matters of personal interest. Additionally, the Department appreciates that the workplace brings together culturally diverse individuals who may have differing viewpoints and sensitivities. As a result, a conversation, music, conduct or a personal item that one individual finds enlightening or amusing may be offensive to someone else who sees, hears or is exposed to it.

The lawful balancing of free speech with the prohibitions on unlawful workplace harassment (and admonitions regarding professional conduct) does not guarantee that one will never be exposed in the workplace to any word or conduct that one may find personally offensive. Nevertheless, the Department desires for all employees to work in an environment that is reasonably culturally sensitive and one that enhances work performance. Therefore, employees are encouraged to promptly and politely advise an offending co-worker (or the co-worker's manager) when exposed to speech, conduct or any matter that is personally offensive, so that the situation may be resolved as quickly and amicably as possible. Managers are encouraged to consult as needed with the Department's Legal or EEO Office when conflicts arise resulting from social and cultural diversity in the workplace.

Subject:

**UNLAWFUL WORKPLACE HARASSMENT
AND PROFESSIONAL CONDUCT POLICY**

WARNING TO SUPERVISORY LEVEL EMPLOYEES

Supervisors are held to a higher liability standard for conduct constituting illegal harassment or discrimination of subordinate level personnel. Any individual who is or reasonably appears to be in a position of workplace authority or control over another may be held to be a supervisor for purposes of determining liability for harassment or discrimination, (e.g. correctional sergeants over correctional officers). Therefore, it is imperative that supervisory level personnel carefully manage all interpersonal relationships with subordinate personnel, at the work site and away from work.

RELATIONSHIPS BETWEEN EMPLOYEES

While the Department does not prohibit romantic or personal relationships between employees, supervisory level personnel are strongly discouraged from seeking to date, dating, or engaging in romantic or intimate personal relationships with subordinate level personnel. Such relationships have a significant potential for creating disruption at the work site, including generating complaints of favoritism and allegations of harassment by the subordinate if the relationship fails. Also, a relationship involving supervisory personnel and subordinate level personnel may create problems within the work unit by questioning the Department's philosophy of fair play in providing equal opportunity to all qualified individuals. The Department will not tolerate workplace disruption related to such relationships whether involving similarly ranked employees or supervisors and subordinates. Further, management may transfer or make other work assignment changes to minimize potential workplace disruption or liability.

COMPLAINT PROCEDURES

1. Any individual who wishes to file a grievance under this policy must submit a written complaint to the Department within 30 calendar days of the alleged harassing action.
2. The Department will investigate within 60 calendar days from receipt of the written complaint, if warranted and appropriate. The complainant's cooperation is essential in order for the Department to fairly investigate the allegations. A complainant's refusal to cooperate **may** be grounds to close the investigation. The complainant and respondent are encouraged to submit any relevant information and the names of potential witnesses for consideration by the investigator. However, the investigator or appropriate personnel in the EEO Office will determine in an exercise of independent discretion what information should be considered and which witnesses will be interviewed.

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3. The Department will provide the complaining party with a written response at the conclusion of the investigation.
4. The individual may file a simultaneous complaint under Title VII with the Equal Employment Opportunity Commission (EEOC).
5. If the complaining party wishes to appeal the Department's grievance investigation, the appeal should be made directly to the Office of Administrative Hearings (OAH) after the Department's 60 calendar days to respond has expired or within 30 days after receiving the Department's investigation response. A fee must be paid to OAH when the petition is filed, unless it is waived by OAH. A copy of the appeal must be served on the Department's General Counsel to the Secretary, who is the agent for service of process for the Department of Correction.



Alvin W. Keller, Jr., Secretary
Department of Correction

28 February 2011

Date



NORTH CAROLINA DEPARTMENT OF CORRECTION

Equal Employment Opportunity Office

Unlawful Workplace Harassment Prevention Plan

Alvin W. Keller, Jr., Secretary
Department of Correction

Valerie F. Robinson, Human Resources Director
Human Resources Department

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UNLAWFUL WORKPLACE HARASSMENT PREVENTION PLAN

North Carolina Department of Correction

Policy Statement

It is the policy of the Department of Correction that no employee, former or present, shall engage in or be subject to unlawful workplace harassment as it pertains to speech or conduct. Whether current or former employees, they have the right to work in an environment free of unlawful workplace harassment and retaliation.

Purpose

The purpose of this policy is to set forth the definition of unlawful workplace harassment and provide employees, managers, and supervisors with a plan for prevention, process for reporting, investigation, and resolution of unlawful workplace harassment issues.

Definitions:

Unlawful Workplace Harassment is defined as unwelcome or unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color, sexual orientation, or disabling conditions as defined by G.S. 168-3 that creates a hostile work environment or circumstance involving quid pro quo.

Hostile Work Environment is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile environment is determined by looking at all the circumstances, including the frequency of the harassing conduct, its severity, whether it is physically threatening or humiliating and whether it unreasonably interferes with an employee's work performance.

Quid Pro Quo Harassment consists of unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct when (1) submission to such conduct is made whether explicitly or implicitly a term or condition of an individual's employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Retaliation is adverse treatment taken because of opposition to unlawful workplace harassment.

Note: Sexual harassment does not include personal compliments welcomed by the recipient, or social interaction or relationships freely entered into by State employees or prospective employees.

Note: Unlawful workplace harassment shall include, but is not limited to the following: slurs, epithets, obscenities, gestures, derogatory comments, unwelcome off-color jokes, teasing or sexual advances and similar verbal or physical conduct, (i.e. bumping, touching, stroking, cornering, grabbing, hugging, and kissing), and sexually suggestive objects or pictures.

Objectives

The Department of Correction seeks the creation of a work environment in the agency that is free of any conduct, which falls under the definition of unlawful workplace harassment by:

- a) Development and disseminating to all employees an Unlawful Workplace Harassment policy statement for the agency;
- b) Sensitizing employees to the subject through training, orientation and literature;
- c) Developing disciplinary actions addressing unlawful workplace harassment.

Timetables

- a) This policy is made available publicly and posted on the Department's website and on bulletin boards where other official Departmental information is normally presented to employees;
- b) Unlawful workplace harassment as one of the topics presented during orientation for new Department employees, and by on-going distribution or relevant literature. All supervisors shall take the Office of State Personnel's Unlawful Workplace Harassment Training course, Equal Employment Opportunity Institute (EEOI). The goal is to have all supervisors complete this course within their initial year of employment.
- c) This and related policies and procedures are reviewed at least annually and revised/updated as needed, or as mandated from Office of State Personnel.

Responsibility and Implementation

The Secretary of the Department of Correction is ultimately responsible for insuring that the employees have a work environment free of any unlawful workplace harassment. However, the EEO Manager who reports directly to the Human Resources Director shall be assigned direct responsibility for the development and implementation of the Unlawful Workplace Harassment Prevention Program.

Specifically, the EEO Office shall be responsible for the following:

- disseminate the unlawful workplace harassment policy statement;
- develop methods to evaluate program activities;
- investigate all claims of unlawful workplace harassment;
- advise as appropriate and necessary all parties involved in cases alleging unlawful workplace harassment to include supervisor, complainant, and respondent;
- monitor and track all disciplinary action on all EEO cases; and
- serve as resource person to all employees and management.

Supervisor/Management Responsibility

Supervisors and managers are accountable and responsible for maintaining a work environment free of any form of harassment and shall utilize EEO office resources to achieve the following:

- administer the agency's policy;
- communicate the policy and plan to employees during the new hire orientation;
- prevent and correct any identifiable discrimination and/or unlawful workplace harassment;

- counsel employees when appropriate to prevent and correct unlawful workplace harassment; and
- notify the EEO Office of any claim or potential claim;
- create and maintain a work environment free of unlawful workplace harassment and retaliation

Employee's Responsibility

- adhere to the unlawful workplace harassment policy;
- report any form of discrimination and unlawful workplace harassment; and
- maintain a work environment free of unlawful workplace harassment and retaliation

Training

The Department of Correction recognizes its responsibility to prevent and correct unlawful workplace harassment and retaliation, and offers a training program for its supervisors and employees to sensitize all to the subject.

The Office of Staff Development and Training (OSDT) in collaboration with the EEO Office will develop an unlawful workplace harassment training module for supervisors and managers based upon the design from the Office of State Personnel, Equal Opportunity Services Division. The components for the supervisors training will include but are not limited to the following:

- unlawful workplace harassment policy
- unlawful workplace harassment grievance procedures
- discrimination and unlawful workplace harassment and retaliation
- State and Federal laws
- appropriate disciplinary action

Training for employees will include but is not limited to the following:

- unlawful workplace harassment policy
- unlawful workplace harassment grievance procedures
- employees rights and responsibilities
- grievance procedures
- State and Federal laws
- disciplinary process

Mediation

Mediation assistance is available to all employees as an alternative to the traditional investigative process. Mediation is a voluntary informal process in which a trained mediator assists the parties in reaching a mutually agreed upon resolution.

Counseling

For victims of unlawful workplace harassment who may be experiencing some work related problems such as absenteeism, low productivity, inefficiency, as well as physiological problems which have been linked to stress, the Deer Oaks Employee Assistance Program will be cited as an available resource.

Grievance Procedure

Any former employee, full-time or part-time employee with either a permanent, probationary, trainee, time-limited permanent or temporary appointment who has reasons to believe that he/she has been subjected to unlawful harassment in the workplace must do the following:

1. Management/Supervisory Level

The Department has a Zero Tolerance policy for workplace harassment. All employees have a duty to immediately report conduct, which he or she reasonably believes, constitutes unlawful workplace harassment in writing to the appropriate manager or the Department's EEO Office within thirty (30) calendar days of the alleged harassing action. Employees have the right to bypass any step in the grievance process that would involve a review or decision by the alleged harasser. Managers and Supervisors may contact the EEO Office for guidance.

2. Department Level

Report the alleged harassing conduct in writing within thirty (30) calendar days of the alleged action to the:

**Department of Correction
Equal Employment Opportunity Office
214 West Jones Street
4203 Mail Service Center
Raleigh, North Carolina 27699-4203
Phone: (919) 716-3700 Fax: (919) 716-3958**

A prompt, thorough and impartial investigation shall be conducted within sixty (60) calendar days from receipt of the written complaint. Regardless of the findings the complaint shall be resolved within the sixty (60) calendar day period. If the claimant is not satisfied with the outcome of the investigation, he/she may appeal directly to the Office of Administrative Hearings (OAH) and the State Personnel Commission (SPC) within thirty (30) calendar days of the agency's written response.

**Office of Administrative Hearings (OAH)
6714 Mail Service Center
Raleigh, North Carolina 27699 – 6714**

3. External Level

Grievant may file a simultaneous charge at the same time under Title VII with the Equal Employment Opportunity Commission (EEOC).

Equal Employment Opportunity Commission
1309 Annapolis Drive
Raleigh, North Carolina 27608-2129
Phone: (919) 856-4064

Equal Employment Opportunity Commission
129 West Trade Street, Suite 400
Charlotte, North Carolina 28202
Phone: (704) 344-6682

Equal Employment Opportunity Commission
2303 West Meadowview Road, Suite 201
Greensboro, North Carolina 27405-7813
Phone: (336) 547-4188

Discipline

Unlawful workplace harassment shall be viewed as unacceptable personal conduct resulting in immediate disciplinary action leading up to and including dismissal. Any incidents of unlawful harassment shall be addressed under the Department's current personal conduct disciplinary policy. No disciplinary action will be issued without guidance from and consultation with the EEO Manager and/or Human Resources Director to ensure the appropriate level of corrective and/or disciplinary action, and that such action is consistently applied department wide for the purpose of fair and impartial treatment.

Prohibition of Retaliation and Impeding an Investigation

The Department shall not tolerate co-workers or supervisors committing acts of retaliation against an employee who has filed an unlawful workplace harassment complaint and/or an employee assisting in a complaint. Furthermore, the Department will not tolerate interfering with or impeding in any manner the investigation of a complaint alleging unlawful workplace harassment or discrimination. Retaliation can include remarks, threats, or the involuntary transfer to another location, post assignment, or shift change of the person making the complaint unless the individual filing the complaint requests the transfer. Acts of retaliation shall be viewed as unacceptable personal conduct, which shall result in immediate disciplinary action up to and including dismissal.

Dissemination

The Department of Correction is dedicated to wide dissemination of this policy. It will be posted on the informational bulletin board in DOC building and facilities. The Unlawful Workplace Prevention Plan shall be publicized and disseminated throughout the Department by utilizing the following channels:

- dissemination and posting of the Equal Employment Opportunity Plan throughout the Department;

- post the EEO Plan, Unlawful Workplace Harassment Policy and Procedures on the DOC - EEO web site;
- utilize the Department's newsletter to inform and educate employees regarding unlawful workplace harassment;
- display the Unlawful Workplace Harassment Policy Poster throughout the department.

Evaluation

The Department of Correction will maintain and report unlawful workplace harassment complaints through the established grievance reporting mechanism in the BEACON system.

An annual review shall be conducted by the EEO Manager and Human Resources Director that identifies:

- 1) the number of incidents;
- 2) the location of incidents in the Department;
- 3) the ethnic and gender make-up of employees alleging harassment;
- 4) the ethnic and gender make-up of alleged harassers;
- 5) the department's program toward objectives and goals identified in that year's Unlawful Workplace Harassment Prevention Plan.

Any supervisor who becomes aware of a claim or potential claim shall be responsible for reporting such information to the EEO Manager and/or Human Resources Director. The EEO Manager shall be responsible for verifying that all claim information reported to the EEO Office is properly noted on the BEACON system, when appropriate. The information regarding claims shall be summarized and presented to the Secretary for review on a yearly basis. The EEO Manager and Human Resources Director shall evaluate the collected information and determine changes to implement the prevention program.



Alvin W. Keller, Jr., Secretary
Department of Correction

28 February 2011

Date